

SECTION 10. EMPLOYEE COMPENSATION

(As amended December 10, 2002, March 4, 2003, April 8, 2003, January 18, 2005, February 15, 2005, July 12, 2005, and February 14, 2006)

10-1. Definitions.

- (a) **Advanced multilingual skills:** Those skills required for written and oral communication and comprehension in a language other than English.
- (b) **Basic multilingual skills:** Those skills primarily required for signing or for oral communication and comprehension, such as those used in conversation with clients and citizens, in a language other than English.
- (c) **Control point:** A point established at 90 percent of the salary range that is used to control an employee's progression through the pay range associated with an MLS class. An employee's base salary may advance within the salary range beyond the control point only if the employee's performance is ranked as "Exceptional Performance". The control point is calculated by using the following formula:
$$\begin{aligned} &\text{Salary range maximum} - \text{Salary range minimum} = \text{Salary range dollars} \\ &\text{Salary range dollars multiplied by } 0.9 + \text{Salary range minimum} = \text{Control point.} \end{aligned}$$
- (d) **Excess compensatory time:** Compensatory time hours earned by an employee that exceed the maximum number of hours that the employee may carry over from one leave year to the next.
- (e) **General emergency pay:** Additional pay or compensatory time earned by an employee at the regular hourly rate if the employee is required to work during a period of general emergency. General emergency pay is given to the employee in addition to regular pay for the normal hours worked during the declared emergency period.
- (f) **General wage adjustment:** An across-the-board pay increase of the same amount or the same percentage given to each employee in a particular group.
- (g) **Multilingual pay differential:** Additional compensation given by the County to a County government employee who:
 - (1) has been designated to fill a general department need for specific language skills or occupies a position that has been designated to provide multilingual services;
 - (2) is certified by OHR as having basic or advanced multilingual skills; and
 - (3) provides multilingual services in the course of the employee's County government employment.

- (h) **On-call:** The status of an employee who may be contacted and offered the opportunity to perform overtime work or provide telephone assistance.
- (i) **Overtime compensation threshold:** The point after which the County must compensate an employee for performing overtime work.
- (j) **Overtime work:** Duties performed by an employee outside of a normal workday of at least 8 hours or a normal workweek of at least 40 hours.
- (k) **Pay status:** Time during which an employee is paid for performing work, using paid leave, or both.
- (l) **Performance-based pay:** Additional pay awarded to an eligible employee based on the employee's annual performance rating. There are 2 types of performance-based pay awards:
 - (1) an addition to base salary award, which is a salary increase added to an employee's base salary; and
 - (2) a lump-sum award, which is a pay award distributed as a single payment that is not added to base salary.
- (m) **Shift-pay differential:** Extra pay given to an employee who works a shift that begins at a specified time of day or during a specified time period during the day.
- (n) **Special pay differential:** Extra pay given to an employee for performing specified duties that require or involve additional education, training, effort, risk, or responsibility.
- (o) **Stand-by pay:** The compensation given to an eligible employee assigned to stand-by status.
- (p) **Stand-by status:** The condition of an employee who has been officially designated by the employing department to remain ready to perform work when contacted and asked to do so.
- (q) **Work status:** Time during which an employee is paid only for performing work.

10-2. General compensation policy. The County must provide a total compensation system designed to recruit and retain a high quality workforce. The CAO must periodically compare the compensation of County employees with the appropriate labor market and other area compensation systems to maintain a standard of comparability.

10-3. Uniform salary plan.

- (a) The uniform salary plan consists of salary schedules authorized in Code Section 33-11(b) for:
 - (1) employees represented by certified employee organizations;

- (2) minimum wage/seasonal employees;
 - (3) sworn police managers;
 - (4) uniformed fire/rescue managers;
 - (5) sworn deputy sheriff managers;
 - (6) uniformed correctional managers;
 - (7) employees in positions in the Management Leadership Service; and
 - (8) a general salary schedule for all other employees.
- (b) The Council must approve the uniform salary plan and any amendments by resolution.
- (c) The CAO must issue approved salary schedules for employee groups with salary rates or a salary range for each pay grade or pay band.
- (d) The CAO must assign an occupational class to an appropriate pay grade or pay band on an approved salary schedule in the uniform salary plan.
- (e) The salary rate or range for each pay grade or pay band on an approved salary schedule must remain in effect until a change is approved by the County Council.
- (f) The CAO must base a recommendation to amend a salary schedule on the factors specified in Section 33-11 of the County Code.
- (g) The CAO must ensure that all occupational classes that require comparable experience and have comparable duties, responsibilities, and authority are paid comparable salaries that reflect the relative value of the services performed, except for occupational classes on the following salary schedules:
- (1) police bargaining unit;
 - (2) fire/rescue bargaining unit;
 - (3) deputy sheriffs in the OPT bargaining unit;
 - (4) minimum wage/seasonal;
 - (5) sworn police managers;
 - (6) uniformed fire/rescue managers;
 - (7) sworn deputy sheriff managers;
 - (8) uniformed correctional managers; and
 - (9) Management Leadership Service.

- (h) Collective bargaining agreements may supersede the comparable pay for comparable work standard for some salary schedules.

10-4. Payroll policies.

- (a) **Pay period.** The CAO must pay employees for two-week pay periods.
- (b) **Work year.** The CAO must compute salaries under the County pay schedules on the basis of 52 weeks for a work year of not more than:
 - (1) 2,496 hours for uniformed fire/rescue employees; or
 - (2) 2,080 hours for all other employees.
- (c) **Payroll deductions.** The CAO must determine appropriate deductions from an employee's pay under Federal, State, or County statutes and regulations.
- (d) **Recovery of overpayment or employee debt.**
 - (1) **Recovery of overpayment to employee.**
 - (A) If the County overpays an employee, the CAO may deduct money from the employee's pay to recover the overpayment. The CAO must give the employee notice and an opportunity to respond before deducting the amount of the overpayment from the employee's pay.
 - (B) An employee who is overpaid by the County has a duty to promptly notify the department director of the overpayment.
 - (C) A department director may take disciplinary action against an employee who knew about the overpayment but failed to notify the department director.
 - (2) **Recovery of employee debt to County.** The CAO may set off a debt that an employee or former employee owes to the County and deduct the amount owed from unpaid salary, accrued annual leave or compensatory time, or retirement contributions owed to the employee. The CAO must give the employee or former employee written notice of the deduction and an opportunity to respond.
 - (3) **Employee's right to appeal the County's recovery of an overpayment or debt.** An employee may file a grievance under Section 34 of these Regulations over a deduction to recover an overpayment or a debt from the employee.

(e) ***Payroll certification.***

- (1) A department director must not place a person in a merit system position or on the payroll of a County department or office, authorize the payment of salary or wages, authorize a change in salary or wages, or authorize the removal of any person from a payroll unless the act is consistent with the Personnel Regulations and is approved in writing by the CAO or the OHR Director.
- (2) A department director must give the CAO or OHR Director all time, attendance, and payroll records requested.
- (3) The CAO may require the OHR Director to certify that:
 - (A) a merit system employee whose name appears on a payroll was appointed under the provisions of the Charter of Montgomery County and the Personnel Regulations and performed service during the period for which compensation is claimed; and
 - (B) the employee's salary or compensation is at the appropriate rate indicated in official employee records.

(f) ***Effective date of a salary change.*** The effective date of a salary change is the beginning of the pay period in which the change is made, unless the CAO specifies a different date.

(g) ***Direct deposit.*** An employee hired on or after July 1, 2004, must, as a condition of employment, agree to have the County deposit the employee's biweekly pay directly in the employee's account at a bank, credit union, or other comparable government-regulated financial institution.

10-5. Salary-setting policies.

- (a) ***General.*** A department director must ensure that an employee's base salary does not exceed the pay rate or range of the pay grade or pay band assigned to the employee's class, unless the department director:
- (1) demoted the employee because of reduction-in-force or disability under Section 10-5(d); or
 - (2) reclassified or reallocated the employee's position to a lower pay grade or pay band under Section 10-5(f).
- (b) ***Salary on appointment and reappointment.*** A department director must set the base salary of a newly appointed or reappointed employee within the applicable pay grade or pay band under these Regulations and guidance established by the OHR Director and CAO.

(c) ***Salary on promotion.***

(1) ***Compensation for a regular (non-temporary) promotion.***

- (A) A department director must ensure that an employee's base salary following promotion is not less than the minimum or more than the maximum salary for the new pay grade or pay band.
- (B) A department director must give a merit system employee who is promoted at least a 5 percent increase in base salary, except as provided in (C) below.
- (C) A department director must not give a salary increase upon promotion to an employee who took a voluntary demotion in the past but did not lose salary, unless:
 - (i) a salary increase is necessary to restore the employee to the salary that the employee would have had if the employee had not been demoted; or
 - (ii) the employee is promoted to a higher-graded position than the position from which the employee was demoted.
- (D) A department director may give an employee who is promoted an additional increase in base salary up to a maximum of 10 percent for a single promotion.
- (E) In extraordinary circumstances, the department director may recommend and the CAO may approve an increase of up to 20 percent of base salary.

(2) ***Compensation for a temporary promotion.***

- (A) A department director who temporarily promotes an employee for more than 10 consecutive calendar days must give the employee a pay increase retroactive to the first day the employee was temporarily promoted. The amount of the pay increase must be consistent with subsection (1) above.
- (B) An employee working under a Position and Career Education (PACE) contract has not been temporarily promoted and is not entitled to a pay increase.
- (C) A non-MLS employee who is temporarily promoted to an MLS position is:
 - (i) not eligible for performance-based pay; and

- (ii) remains eligible to earn compensation, such as compensatory time and holiday premium pay, for which an MLS employee is ineligible.

(d) ***Salary on demotion.***

- (1) ***Voluntary demotion.*** A department director may allow an employee to keep the employee's current base salary after a voluntary demotion but must ensure that the employee's salary is:
 - (A) not increased;
 - (B) not less than the minimum or more than the maximum salary of the new pay grade or pay band; and
 - (C) not decreased by more than 20 percent of base salary.
- (2) ***Disciplinary demotion or demotion resulting from unsatisfactory performance.*** If an employee is demoted for cause or for unsatisfactory performance, the department director must reduce the employee's salary by:
 - (A) no more than 20 percent of base salary; or
 - (B) more than 20 percent, if necessary to bring the employee's salary to the maximum salary of the new pay grade or pay band.
- (3) ***Demotion resulting from reduction-in-force or disability.***
 - (A) If an employee is demoted as a result of reduction-in-force or disability, the department director must allow the employee to retain the salary received immediately prior to the effective date of the demotion. If the demoted employee's salary exceeds the maximum for the new pay grade or pay band, the department director must allow the employee to retain the salary for 2 years after the demotion.
 - (B) A department director must not approve a salary increase for an employee whose base salary exceeds the maximum salary for the pay grade. At the end of the 2-year salary retention period, the department director must reduce the employee's base salary to the maximum for the pay grade of the employee's position.
 - (C) If the CAO reclassifies a demoted employee's position upward during the 2-year period following the demotion, the department director must not increase the employee's salary unless a salary increase is required to bring the employee's salary to the minimum salary of the new pay grade or pay band.

(e) ***Salary on reassignment during the promotional probationary period.***

If a department director reassigns a promoted employee to a position at the employee's former pay grade because the promoted employee failed to perform the duties of the new position adequately during the promotional probationary period, the department director must reduce the employee's salary after the reassignment by the amount that it was increased because of the promotion.

(f) ***Salary on reclassification or reallocation.***

- (1) The reclassification or reallocation of a position to a higher pay grade or pay band is not a promotion.
- (2) A department director must not increase the salary of an employee whose position is reclassified or reallocated to a higher pay grade or pay band, except as indicated in Section 12-2(c) of these Regulations, or to ensure that the employee's salary is at the minimum for the new pay grade or pay band.
- (3) The reclassification or reallocation of a position to a lower pay grade or pay band is not a demotion.
- (4) A department director must ensure that an employee whose position is reclassified or reallocated to a lower pay grade:
 - (A) keeps the salary the employee received immediately before the effective date of the reclassification or reallocation; and
 - (B) receives a general wage adjustment that other employees in the same occupational class covered by the same salary schedule receive even though it results in the employee's salary exceeding the maximum salary for the pay grade or pay band assigned to the position.
- (5) A department director must ensure that the salary of a position that was downgraded reverts to the salary range for the pay grade or pay band assigned to the position after the employee who occupied the position at the time of the downgrade leaves the position.

(g) ***Salary during a within-grade salary reduction.***

- (1) A department director may reduce an employee's bi-weekly salary by giving the employee a within-grade salary reduction described in Section 33-3(d).
- (2) The department director must give the employee written notice of the amount of the reduction and the number of pay periods that the reduction will cover.

10-6. Overtime policy.

- (a) The assignment of overtime work is an exercise of management discretion reserved to supervisors. An employee has no entitlement to be assigned overtime work, unless such a right is expressly stated in a regulation or written agreement.
- (b) A department director:
 - (1) may require an employee to perform overtime work;
 - (2) must authorize an overtime assignment before the employee is given the assignment or performs the work, and may delegate to subordinate supervisors the authority to assign overtime work;
 - (3) must keep overtime work to a minimum and not approve overtime work unless the workload of the department cannot be accomplished without it;
 - (4) must ensure that expenditures for overtime are kept within budget limitations, unless compensatory time is used to compensate employees for overtime work; and
 - (5) must not compensate an MLS employee for overtime work with overtime pay or compensatory time.
- (c) A supervisor may assign overtime work to an employee who volunteers for the overtime assignment or to an employee who does not volunteer for the assignment, but the supervisor should attempt to equally distribute the overtime among the employees who are qualified to perform the work.
- (d) Except in an emergency, a supervisor should make every effort to schedule overtime in advance and no later than the end of the workday before the day of the overtime assignment.
- (e) An employee who fails to perform an overtime assignment may be subject to disciplinary action.
- (f) An employee must not file a grievance under these Regulations to enforce Federal or State wage and hour statutes that are enforceable by filing a claim with the appropriate Federal or State agency.

10-7. Overtime compensation.

- (a) ***Overtime compensation threshold.*** A department director must compensate an employee with overtime pay or compensatory time if the employee's total hours in a pay status during a workday or workweek exceed the overtime compensation threshold.

- (b) **Applicable overtime compensation thresholds.** The applicable overtime compensation thresholds for County positions are reflected in the table below:

Normal Overtime Compensation Thresholds for County Employees			
Type of position	Threshold during regular workday	Threshold during regular workweek	Threshold if employee must work on holiday, in general emergency, or on employee's day off
Non-exempt employee	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours
Exempt employee, grade 24 or below	8-12 hours, depending on number of hours in normal workday	40 hours	40 hours
Police officer at rank of sergeant or below	8-10 hours, depending on number of hours in normal workday	40 hours	40 hours
Firefighter/ rescuer at rank of captain or below	number of hours in regular workday for full-time employee	48 hours or number of hours in regular workweek for full-time employee	48 hours or number of hours in regular workweek for full-time employee
Exempt employee, grade 25 or above	13-17 hours, depending on number of hours in normal workday	45 hours	40 hours
Police officer at rank of lieutenant or above	13-15 hours, depending on number of hours in normal workday	45 hours	40 hours
Firefighter/ rescuer at rank of district chief or above	number of hours in regular workday for full-time employee, plus 5 hours	53 hours or number of hours in regular workweek for full-time employee plus 5 hours	48 hours or number of hours in regular workweek for full-time employee

- (c) **Normal overtime pay rates.**

- (1) **For a bargaining unit employee.** The County must compensate a bargaining unit employee for overtime work at the rate stated in the appropriate labor agreement.
- (2) **For a non-exempt unrepresented employee.** The County must compensate a non-exempt employee who is not in a bargaining unit position at the rate of 1 ½ times the employee's regular hourly salary for each hour in a pay status beyond the overtime threshold. The regular hourly salary must include pay differentials that apply to the overtime hours worked.
- (3) **For an exempt employee.** When an exempt employee is eligible for overtime compensation under these Regulations, the County must compensate the employee as follows:

- (A) an exempt employee at grade 24 or below must be compensated at the rate of 1 ½ times the employee's regular hourly salary for each hour in a pay status beyond the overtime threshold; and
- (B) an exempt employee at grade 25 or above must be compensated at the employee's regular hourly salary for every hour in a pay status beyond the overtime threshold.

(d) ***Exception to normal overtime pay rates.***

- (1) If the overtime work is scheduled, the County must not compensate the employee at the overtime rate unless the employee was in a work status more than the employee's regularly scheduled workday, but at least 8 hours;
- (2) If an employee has an unscheduled absence the day after having worked overtime, the County must compensate the employee at the regular (straight time) pay rate for the number of hours of the unscheduled absence, unless the FLSA requires overtime compensation at the 1 ½ rate. A scheduled absence, for the purpose of this section, is leave that is:
 - (A) requested and approved during the employee's work period preceding the day of the requested time off; or
 - (B) requested while the employee is working on the day following the day in which the overtime was worked, and approved subject to workload requirements as determined by the supervisor.
- (3) If an employee is in a public safety class that is not on the general salary schedule, a department director must compensate the employee as follows:
 - (A) under the appropriate labor agreement if the employee is in a public safety class that is in a bargaining unit;
 - (B) as if the employee was an exempt employee in pay grade 24 or below if the employee is a firefighter/rescuer at the rank of lieutenant or captain; or
 - (C) as if the employee was an exempt employee in pay grade 25 or above if the employee is a police officer at the rank of lieutenant or above or a firefighter/rescuer at the rank of district chief or above.

(e) ***Rounding of overtime.***

- (1) An employee who submits an electronic timesheet must total overtime work for each workweek and record it on the time sheet without rounding.
- (2) An employee who submits a paper time sheet must round overtime as follows before recording it on the timesheet:

- (A) no compensation for 0-15 minutes;
 - (B) one half-hour of compensation for 16-45 minutes; and
 - (C) one hour of compensation for 46-60 minutes.
- (f) **Form of overtime compensation.** A department director must provide compensation to employees for overtime work that is eligible for overtime compensation. A director must provide overtime compensation in the form of overtime pay or compensatory time earned at the overtime rate.
- (1) A department director must pay a non-exempt employee overtime pay for overtime work unless:
 - (A) the employee requests and the supervisor approves compensatory time; or
 - (B) the department director determines that the cost of overtime pay cannot be accommodated within the department's existing budget appropriations and the FLSA does not require the department director to give overtime pay.
 - (2) A department director must compensate an exempt employee for overtime work that is eligible for overtime compensation. The employee must be compensated with compensatory time at the appropriate overtime rate instead of overtime pay unless the department director determines that:
 - (A) the cost of overtime pay can be accommodated within the department's existing budget appropriations; and
 - (B) the amount of overtime work needed is so great that the employee would not be able to use the compensatory time earned during the leave year.

10-8. Compensatory time.

- (a) **Payment of compensatory time.** The County must pay an employee for compensatory time at the employee's pay rate at the time that the compensatory time is used or paid off.
- (b) **Use of compensatory time.**
 - (1) An employee must apply to use compensatory time in advance unless the employee could not anticipate the need to use the compensatory time.
 - (2) An employee must not use compensatory time until it is credited by the payroll system and the employee's supervisor approves the use.
 - (3) A department director should ensure that an employee schedules and has the opportunity to use the employee's accrued compensatory time.

- (4) A department director may:
 - (A) restrict an employee's use of compensatory time during certain periods of the year;
 - (B) require the use of compensatory time in amounts of 8 hours or more.

(c) ***Limits on accrual of compensatory time.***

- (1) ***Compensatory time carryover.*** The CAO must allow an employee to carry over a maximum of 80 hours of compensatory time to the next leave year or a prorated amount if the employee's regular work schedule consists of more than 80 hours per pay period.
- (2) ***Excess compensatory time.***
 - (A) An employee's unused compensatory time that exceeds 80 hours at the end of the leave year is excess compensatory time, unless the employee's regular work schedule consists of more than 80 hours per pay period. For a work schedule of more than 80 hours per pay period, the hours in excess of the prorated maximum carryover amount are excess compensatory time.
 - (B) The CAO must not allow an employee to carry over excess compensatory time to the next leave year unless an exception is granted under subsection (c)(3) or (c)(4).
- (3) ***Limits on accrual for a non-exempt employee.*** The CAO must pay a non-exempt employee for excess compensatory time hours at the end of the leave year unless the employee gives written notice to the OHR Director that the employee wants to carry over the excess compensatory time for one year.
- (4) ***Limits on accrual for an exempt employee.***
 - (A) The CAO must convert an exempt employee's excess compensatory time to sick leave at the beginning of the next leave year, unless the CAO grants an exception under 10-8(c)(4)(B) below.
 - (B) The CAO may allow an exempt employee to carry over some or all of the employee's excess compensatory time to the next leave year if the employee did not use the excess compensatory time because of special circumstances or workload demands. The employee must use the excess by the end of the next leave year.

- (d) ***Disposition of compensatory time at separation.***
 - (1) ***At separation of a non-exempt employee.*** The County must pay a non-exempt employee who leaves County employment for all unused compensatory time.
 - (2) ***At separation of an exempt employee.*** If an exempt employee leaves County employment, the County must:
 - (A) pay the employee for up to 80 hours of unused compensatory time or a larger prorated amount if the employee's regular work schedule includes more than 80 hours per pay period; and
 - (B) convert the hours for which an employee is not paid to sick leave.
 - (3) ***At death of an employee.*** If an employee dies, the County must pay the employee's beneficiary or estate for all unused compensatory time.
- (e) ***Withholding or adjustment of accumulated compensatory time.***
 - (1) If an employee is indebted to the County, the County may deduct the amount due from the employee's accumulated compensatory time, after giving the employee written notice of the deduction and an opportunity to respond.
 - (2) If the employee objects to the deduction, the employee may file a grievance under Section 34 of these Regulations.
- (f) ***Disciplinary deduction of accrued compensatory time.***
 - (1) Under Section 33-3(c) of these Regulations, a department director may deduct up to 80 hours of compensatory time from an exempt employee's accumulated compensatory time for disciplinary reasons. An employee may file a grievance over the disciplinary action and the amount of the deduction under Section 34 of these Regulations.
 - (2) The FLSA prohibits a department director from taking accumulated compensatory time from a non-exempt employee for disciplinary reasons.
- (g) ***Use of compensatory time as FMLA leave.***
 - (1) An employee must not use compensatory time as FMLA leave.
 - (2) A supervisor must not designate compensatory time as FMLA leave.

(h) ***Use, carryover, and disposition of compensatory time by an MLS employee.***

- (1) An MLS employee may not earn compensatory time, but may keep, use, and carry over the compensatory time that the employee had accrued at the time the employee became an MLS member.
- (2) The County must pay an MLS employee for up to 80 hours of compensatory time when the employee leaves County employment.
- (3) An MLS employee is subject to the provisions of these Regulations on the use, carryover, and disposition of compensatory time by exempt employees.

10-9. Pay differentials. The CAO may authorize a pay differential if the County Council approves the differential.

(a) ***Shift pay differentials.***

- (1) The CAO may establish shift pay differentials for evening work and determine the amount paid for the differential.
- (2) A department director must pay a shift pay differential to an employee who begins the employee's assigned shift during a period covered by the differential.
- (3) An employee is not eligible for shift pay differential for hours of leave or for short periods of additional work that do not constitute a shift.
- (4) A department director must not pay a shift pay differential to an MLS employee.

(b) ***Special pay differentials.*** A department director must pay a special pay differential to an employee who:

- (1) is appointed, transferred, promoted, or demoted to a position associated with a special pay differential; and
- (2) performs the duties associated with the differential.

(c) ***Multilingual pay differentials.***

- (1) ***Eligibility for multilingual pay.*** To be eligible to receive a multilingual pay differential, an employee must be fluent in English and:
 - (A) be certified by OHR as having basic or advanced multilingual skills;

- (B) be assigned to a position designated for a multilingual pay differential or be an employee designated to fill a general department need for specific language skills; and
- (C) actually provide or be available to provide multilingual services in the course of the employee's County government employment.

(2) ***Designation of a position, occupational class, or occupational series as requiring multilingual skills; identification of a general need for multilingual skills.***

- (A) With the approval of the OHR and OMB Directors, a department director may:
 - (i) designate a position, occupational class, or occupational series as requiring the ability to communicate in American Sign Language, a language other than English, or several languages other than English; or
 - (ii) identify a specific language skill (e.g., Spanish, Farsi) that is generally needed within a department, division, or work unit but which language skill is not otherwise related to the duties of a particular position, occupational class, or occupational series.
- (B) The department director must provide the following information to the OHR and OMB Directors in writing:
 - (i) the specific language skill needed;
 - (ii) the client population or program that would benefit from an employee's ability to communicate in the language identified;
 - (iii) whether basic or advanced multilingual skills are needed;
 - (iv) how often the identified language skill is needed; and
 - (v) how many employees with the language skill are needed to meet the needs of the department, division, or work unit.
- (C) A department director may, with the approval of the OHR and OMB Directors, change the language previously identified to a different language or change the level of proficiency needed. The department director must provide the OHR Director and OMB Director with a written justification for the change.
- (D) The OHR and OMB Directors must take the following into consideration when reviewing a request for a multilingual designation of a position, occupational class, or occupational series

or the identification of a specific language skill generally needed within a department, division, or work unit:

- (i) the department's reason for the request; and
 - (ii) the total number of employees in the department and the County government who have the language skill identified by the department; and
 - (iii) whether the department's need could be met by other employees in the department or County government who are already certified to provide the required language skill.
- (E) When recruiting to fill a vacant position by initial appointment or promotion, a department director may include a specific language skill as a qualification or a preferred qualification if the OHR and OMB Directors have approved the department director's request for a multilingual designation of the position or the occupational class or occupational series that includes the position.
- (F) If a position is designated as requiring multilingual skills and the incumbent employee does not have the required multilingual skills, the department director must:
 - (i) exempt the position from the requirement until the incumbent employee leaves the position; or
 - (ii) transfer the employee to an equivalent position that does not require multilingual skills, with the same salary, benefits, and working conditions.
- (G) A department director must review the multilingual designation of a position after:
 - (i) a certified multilingual employee leaves the position through promotion, transfer, or separation; or
 - (ii) the performance evaluation of a certified multilingual employee indicates that the employee did not use, or seldom used, the multilingual skills during the rating period.
- (H) A department director should review the multilingual designation of an occupational class or occupational series or the identification of a specific language skill generally needed within a department, division, or work unit after:
 - (i) a program change or reorganization that affects the need for multilingual skills;

- (ii) a change in client characteristics that indicates that the identified language skill may no longer be needed; or
- (iii) the performance evaluations of employees who are certified in a particular language indicate that the employees did not use, or seldom used, the multilingual skills during the rating period.

(3) ***OHR certification of multilingual employees.***

- (A) To have an employee's language skills certified, a department director must submit the following to OHR:
 - (i) the OHR and OMB approval of the designation of the position, occupational class, or occupational series as requiring multilingual skills or approval of the identification of a specific language skill generally needed within a department, division, or work unit; and
 - (ii) a completed language certification form.
- (B) The department director must provide the following information on the language certification form:
 - (i) the language skill needed;
 - (ii) the level of proficiency needed (basic or advanced); and
 - (iii) the name of the employee whose language skills need to be certified.
- (C) After receiving the OHR and OMB approvals and a completed language certification form from a department, the OHR Director must:
 - (i) schedule the employee for a language test;
 - (ii) conduct the examination;
 - (iii) notify the employee and department of the examination results and the effective date of the certification if the employee passed the language examination; and
 - (iv) add the name of the newly-certified employee to the Countywide Interpreter List, unless the department director has requested that the employee's name not be included on the List and the OHR Director has approved the request.
- (D) If the employee fails the examination, the employee may submit a request to be retested within 6 months of the date of the initial

examination. If the employee has not passed the examination within 6 months of the initial examination, the department must submit a new language certification form for the employee to be tested again.

(4) ***Countywide Interpreter List.***

- (A) The OHR Director must maintain a list of County employees who have been certified as having multilingual skills and make the list available to all County departments on the County internet website. The list must include the following information;
 - (i) employee's name and department;
 - (ii) employee's work phone number and e-mail address;
 - (iii) language in which employee is certified; and
 - (iv) level of proficiency.
- (B) The OHR Director may approve a request from a department director that a certified employee's name not be included on the Countywide Interpreter List if the demand for the employee's certified multilingual skills within the department and the nature of the employee's job duties would make the employee unavailable for interpreter assignments in other departments.
- (C) A department director must advise the OHR Director promptly when:
 - (i) a certified employee leaves County employment or the designated position; or
 - (ii) a certified employee will be unavailable for interpreter assignments for an extended period of time for any reason.
- (D) An employee whose name is on the Countywide Interpreter List must:
 - (i) make a reasonable effort to provide interpreter services at the request of other departments; and
 - (ii) must obtain the approval of the employee's supervisor before accepting assignments from other departments.
- (E) A department manager who requests the services of an employee on the List from another department must:
 - (i) give reasonable notice to the certified employee of the need for interpreter services;

- (ii) not subject the employee to hazardous conditions or place the employee in potentially dangerous situations; and
- (iii) if required, provide the employee with transportation to the location where the interpreter services are needed or reimburse the employee for travel and other appropriate expenses.

(5) ***Payment and amount of multilingual pay differentials.***

- (A) The County must pay a higher multilingual pay differential to an employee who is certified at the advanced level than an employee certified at the basic level.
- (B) The amount of multilingual pay differentials for unrepresented employees is determined by the CAO and approved by the Council. The amount of the differentials for bargaining unit employees is determined through collective bargaining and is subject to Council approval.
- (C) The County must pay the multilingual pay differential to a certified employee only for the hours worked and not for hours of paid leave or holidays.
- (D) The County must not pay more than one multilingual pay differential to an employee even if the employee is certified in more than one language.
- (E) The County must not pay a multilingual pay differential to an employee who leaves the position designated for the differential, unless the employee is transferred or reassigned to another position for which the same multilingual skills are approved.
- (F) If a department uses an employee on the Countywide Interpreter List from another department to provide interpreter services for 4 or more hours in a pay period, the department director of the using department must reimburse the employing department for the hourly salary of the employee for the hours that the employee spent providing services to or for the using department.

(6) ***Performance evaluation of employee receiving multilingual pay.*** The supervisor of an employee who receives multilingual pay must:

- (A) include the use of multilingual skills as a performance expectation of the employee's performance plan; and
- (B) rate the employee's performance in using the multilingual skills.

(7) ***Renewal of an employee's multilingual certification.***

- (A) An employee must periodically renew the employee's multilingual certification if the employee wishes to continue to receive the pay differential associated with the certification.
- (B) The OHR Director must:
 - (i) establish the period after which a certified employee must renew the multilingual certification by passing another certification examination;
 - (ii) notify the employee, in writing, of the requirement to renew the employee's multilingual certification;
 - (iii) schedule and administer the examination.
- (C) An employee who fails the examination to renew the multilingual certification must take and pass the examination within 3 months of the first renewal examination or the employee will lose the certification and the multilingual pay differential. The OHR Director may grant an extension for up to one month for extenuating circumstances.

(8) ***Stopping a multilingual pay differential.***

- (A) A department director must ensure that the County stops paying the multilingual differential to a certified employee who:
 - (i) transfers to, or assumes, a position for which the multilingual skills are not approved;
 - (ii) was certified to provide multilingual services that are no longer needed;
 - (iii) is no longer needed by a department to fill the role of providing a specific language skill generally needed in the department;
 - (iv) is no longer able to provide the multilingual services;
 - (v) no longer wishes to provide the multilingual services;
 - (vi) refuses or fails to provide requested multilingual services in a satisfactory manner; or
 - (vii) fails to renew the multilingual certification as required.

- (B) The department director must notify the certified employee and the OHR and OMB Directors of a decision to stop paying a multilingual differential to a certified employee and the reasons for stopping the differential.
 - (C) If multilingual skills are a requirement for a designated position and the incumbent employee no longer wishes to provide the multilingual skills, the department director must determine if the employee's request can be accommodated by means such as transferring the employee or relying on the multilingual skills of other employees. If the director determines that the request cannot be accommodated, the department director may deny the employee's request.
 - (D) If an employee refuses or fails to provide requested multilingual services in a satisfactory manner, this should be reflected in the employee's performance evaluation and may be grounds for disciplinary action or other action to remove the employee from the designated position.
- (9) ***Appeal of decisions on multilingual pay.*** The following decisions on multilingual pay are not grievable matters:
- (A) eligibility of languages or positions for multilingual designation;
 - (B) the content of language proficiency examinations;
 - (C) the certification or non-certification of an employee's eligibility for multilingual pay; and
 - (D) stopping the payment of a multilingual pay differential under subsection (8) above.
- (d) ***Disposition of pay differentials.***
- (1) A department director must not pay a shift pay differential to an employee who is transferred, promoted, or demoted away from a shift associated with a shift pay differential to a shift not associated with a shift pay differential.
 - (2) A department director must not pay a special pay differential to an employee who is transferred, promoted, or demoted from a position associated with a special pay differential to a position not associated with the differential.
 - (3) The County has discontinued the practice of approving educational salary differentials for employees who earn degrees or complete educational credits. However, an employee with an educational salary differential

approved before July 31, 1978, may keep the differential until the employee leaves County employment.

10-10. Performance-based pay.

- (a) **Performance-based pay for MLS employees.** An MLS employee is not eligible to receive service increments, but may receive performance-based pay as described in this subsection.

(1) **Eligibility for general wage adjustment.**

- (A) **Career employee.** An MLS employee with merit system status who receives a performance rating of *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* for the prior review period receives the general wage adjustment awarded to other unrepresented County employees during the current fiscal year. An employee with a rating of *Does Not Meet Expectations* for the prior review period does not receive the general wage adjustment for the current fiscal year.
- (B) **Probationary employee.** A probationary MLS employee is eligible for the general wage adjustment provided to permanent employees.

(2) **Eligibility for performance-based pay.**

- (A) **Career employee.** An MLS employee with merit system status is eligible to receive performance-based pay. In order to receive a compensation adjustment, an employee must have a performance evaluation on record for the previous fiscal year.
- (B) **Probationary employee.** A probationary employee with less than 6 months service is not eligible for performance-based pay.
- (C) **Eligibility based on performance rating.**
- (i) An employee with a performance rating of *Successful Performance*, *Highly Successful Performance*, or *Exceptional Performance* is eligible to receive performance-based pay as indicated in the table below. However, the salary of an employee who receives an addition to base salary award must not exceed the maximum of the assigned pay band.

Eligibility for Performance-Based Pay for MLS Employees*			
Overall performance rating:	If employee's salary is below 90 percent of pay band	If employee's salary is at or above 90 percent of pay band	If employee's salary is at top of pay band
Exceptional Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 6 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 4 percent of base salary.
Highly Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 4 percent of base salary.	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 3.5 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 3.5 percent of base salary.
Successful Performance	Employee is eligible for an addition to base salary and lump-sum award. The total of the addition to base salary and lump-sum award must not exceed 3.5 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.	Employee is eligible for a lump-sum award not to exceed 2 percent of base salary.
Does Not Meet Expectations	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.	Employee is not eligible for performance-based pay.
* An MLS employee receives the general wage adjustment granted to other non-bargaining unit employees unless the employee's overall performance rating was <i>Does Not Meet Expectations</i> .			

- (ii) An MLS employee does not automatically receive a performance-based pay award of any particular type or amount.

- (b) **Performance-based pay for employees on the general salary schedule.** An employee whose position is on the general salary schedule may be eligible to receive a lump-sum performance-based pay award as described in this subsection.

- (1) **Eligibility for performance-based pay.**

- (A) **Career employee.** An employee with merit system status in a position assigned to the general salary schedule is eligible to receive performance-based pay if the employee:

- (i) has an annual performance rating on record for the previous rating period;

- (ii) satisfies the criteria stated in subsection (2) below; and
 - (iii) is not eligible to receive a 20-year longevity/performance increment under Section 12-9.
- (B) **Probationary employee.** A probationary employee is not eligible for performance-based pay.

(2) **Eligibility based on performance rating.**

- (A) An employee with a performance rating of *Exceptional Performance* or *Highly Successful Performance* for a review period of not less than 6 months will receive a lump-sum award as indicated in the table below unless the employee receives a twenty-year longevity/performance increment under Section 12-9 for the same annual overall rating.

Eligibility for Performance-Based Pay for Employees on the General Salary Schedule	
Overall performance rating:	Employee receives:
<i>Exceptional Performance</i>	A lump-sum award of 2 percent of base salary
<i>Highly Successful Performance</i>	A lump-sum award of 1 percent of base salary
<i>Successful Performance</i>	No additional pay
<i>Does Not Meet Expectations</i>	No additional pay

- (B) An employee may receive only one lump-sum award in a fiscal year.
- (c) **Administration of performance-based pay.**
- (1) **Role of department director.**
- (A) **For MLS Employees.**
- (i) A department director must recommend the individual award amount for an MLS employee in the department and must recommend individual award amounts that are consistent with, and do not exceed, the award amounts in the table in Section 10-10(a)(2)(C)(i) above.
 - (ii) A department director must notify OHR prior to the first pay period of the fiscal year if a general wage adjustment for an MLS employee will be denied, based on the pending overall performance rating given the employee. The department director must give the employee written notice of the denial and include in the notice information about the employee's right to appeal the denial to the MSPB and the time limit for filing an appeal.

(B) ***For general salary schedule employees.*** The department director must submit to the OHR Director:

- (i) for each employee who is eligible to receive a performance-based pay award, a copy of the employee's performance appraisal stating that the employee received an overall rating of *Exceptional Performance* or *Highly Successful Performance* and is eligible to receive performance-based pay under these Regulations; and
- (ii) a statement that the department follows the provisions of Section 11 of these Regulations for all general salary schedule employees.

(C) ***For MLS and general salary schedule employees.*** A department director must not supplement the amount of a performance-based pay award with funds from the department budget.

(2) ***Approval of performance-based pay awards.***

(A) For Executive branch MLS positions, the CAO must review each recommendation for an award and determine the amount of each performance-based pay award. The CAO has final discretionary authority to approve performance-based pay awards for MLS employees in the executive branch.

(B) For legislative branch positions included in MLS, the director or designee of each legislative branch office will have final discretionary authority to approve performance-based pay awards.

(C) For general salary schedule employees, the CAO must:

- (i) determine annually for each upcoming budget year, based on budget limitations and the availability of funds, if performance-based pay awards must be reduced or eliminated; and
- (ii) ensure that employees in positions on the general salary schedule who receive the same overall performance ratings during the fiscal year receive performance-based pay awards of the same percentage of base pay, regardless of their employing departments.

(D) The approval of performance-based pay awards is subject to availability of funds and appropriation by the County Council.

- (3) ***Role of Office of Management and Budget (OMB) and Office of Human Resources(OHR).***
- (A) OMB must recommend funding for compensation increases granted under the performance-based pay system based on actual experience and estimates of the amount of required performance-based pay.
 - (B) In no case will employees' performance-based pay be limited by available appropriation. Any insufficiency of appropriation must be addressed through:
 - (i) executive transfer;
 - (ii) a request for a supplemental appropriation; or
 - (iii) other means to ensure adequate funding for employees' performance-based pay.
 - (C) Performance-based pay must be allocated based on performance, not department size or other non-performance criteria. Funds dedicated to this purpose must be identified in the recommended operating budget in a non-departmental account for performance-based pay. OMB must not move the funds appropriated by the County Council for MLS performance-based pay out of the non-departmental account unless the spending conditions in the appropriation resolution for each fiscal year expressly authorize moving the funds to the individual departments after that department's performance evaluations and decisions on pay awards are completed.
 - (D) Benefit calculations based on regular salary will not include the value of lump-sum awards.
 - (E) OHR must provide:
 - (i) performance evaluation procedures for MLS employees and employees in positions on the general salary schedule;
 - (ii) training and technical support to departments implementing the MLS performance evaluation process and the performance evaluation process in Section 11 of these Regulations for employees in positions on the general salary schedule; and
 - (iii) technical guidance and support to implement performance-based pay.

- (F) For MLS employees, OHR must report to the CAO and County Council annually the distribution by EEO categories of performance ratings and pay changes.

(4) ***Effective date of compensation awards.***

- (A) Performance-based pay for MLS employees must be awarded on a fiscal year basis and a compensation increase awarded to an MLS employee under the performance-based pay system must be effective at the beginning of the first full pay period after July 1st of each year.
- (B) A performance-based pay award for an employee on the general salary schedule must be effective at the beginning of the first full pay period following the end of the review period for which the employee received an overall rating of *Exceptional Performance* or *Highly Successful Performance*. The County must begin paying performance-based pay awards for review periods that end on or after June 30, 2006.

(5) ***Appeals of performance-based pay decisions.***

- (A) An MLS employee may not grieve or appeal a recommendation by a department director or a decision by the CAO or director of a legislative branch office to grant or not grant a performance-based pay award, the type of award granted, or the amount of award granted.
- (B) An MLS employee denied a general wage adjustment may file a grievance under Section 34 of these Regulations.
- (C) An employee in a position on the general salary schedule may not grieve or appeal a decision by the CAO on the amount of the performance-based pay award assigned to a particular overall performance rating.

10-11. Stand-by pay.

- (a) If a department director requires an employee to remain ready during off-duty hours to perform unscheduled and unanticipated work, the County must pay stand-by compensation to the employee at the higher of the following rates:
 - (1) 15 percent of an employee's regular hourly salary; or
 - (2) \$4.00 per hour.
- (b) A department director must pay stand-by pay to an employee for the entire period that the employee is in stand-by status until:

- (1) the employee is contacted to perform unscheduled work and has reported to work;
 - (2) the employee's next regularly scheduled work period; or
 - (3) the employee is contacted and relieved from stand-by status.
- (c) An employee is eligible to receive stand-by compensation if the employee's supervisor notifies the employee to remain available to work during a specified period of time beyond the employee's assigned work hours.
- (d) A department director must not pay stand-by compensation to an employee who is in call-back, overtime, or regular pay status.
- (e) An MLS employee is not eligible to earn stand-by compensation.
- (f) A supervisor who places an employee in stand-by status should tell the employee:
 - (1) the reason for the stand-by status;
 - (2) the location to which the employee must report if called; and
 - (3) the approximate duration of the stand-by status.
- (g) To cancel stand-by status, the supervisor or other responsible department representative must contact the employee and tell the employee that the employee's stand-by status is cancelled.
- (h) An employee in stand-by status must be ready to perform work if contacted and must provide the supervisor or other designated department representative with a telephone number or pager number through which the employee can be promptly contacted.
- (i) An employee in stand-by status must not go so far away from the worksite that the employee's response time is unreasonably increased if the employee is called back to work.
- (j) An employee in stand-by status is responsible for:
 - (1) ensuring that the telephone or pager by which the employee is to be contacted is in good working order and is turned on; and
 - (2) promptly notifying the supervisor or other designated department representative if the employee must be contacted on a different telephone number or pager number.

10-12. On-call status. An employee who is on call:

- (a) is not required to remain ready and available to perform work;
- (b) is not required to remain at or close to a County work site;

- (c) may use on-call time to engage in activities unrelated to the employee's job; and
- (d) must be compensated under the overtime pay provisions in this section only if:
 - (1) the employee is contacted by a supervisor or designee; and
 - (2) actually performs overtime work or provides telephone assistance.

10-13. Call-back pay.

- (a) **Minimum of 3 hours of call-back pay.** If a department director requires an employee to return to work to perform an unanticipated and unscheduled work assignment, usually of an emergency nature, the County must pay the employee for a minimum of 3 hours on each occasion when the employee performs a call-back assignment, regardless of how long the call-back assignment lasts.
- (b) **Form of compensation for call-back assignment.** The County should compensate an employee who performs a call-back assignment with pay and not compensatory time, unless the department director determines that compensatory time must be given because of budget limitations.
- (c) **Call-back pay rate.** The County must pay an employee for all time spent on a call-back assignment at 1 ½ times the employee's regular hourly rate.
- (d) **MLS employees not eligible for call-back pay.** An employee assigned to an MLS position is not eligible to earn call-back pay.

10-14. Compensation of employees during a declared general emergency.

- (a) For a declared general emergency period, the County must:
 - (1) compensate an essential employee who worked during the general emergency period with:
 - (A) regular pay for the hours worked during the general emergency period; plus
 - (B) general emergency pay at the regular hourly rate for the hours worked during the general emergency period;
 - (2) compensate a non-essential employee whose supervisor requires the employee to work during the general emergency period with:
 - (A) regular pay for the hours worked during the general emergency period; plus
 - (B) general emergency pay at the regular hourly rate for the hours that the employee is required to work during the general emergency period;

- (3) compensate an essential employee or a non-essential employee whose supervisor requires the employee to work during a general emergency period that occurs on the employee's scheduled day off with:
 - (A) regular pay at the overtime rate or compensatory time at the overtime rate, as appropriate under Section 10-7(f), for the hours worked during the general emergency period; plus
 - (B) general emergency pay or compensatory time at the regular hourly rate for the hours worked during the general emergency period;
 - (4) compensate an essential employee, or a non-essential employee whose supervisor requires the employee to work, for work performed beyond the normal workday of at least 8 or 10 hours with:
 - (A) additional pay at the overtime rate or compensatory time at the overtime rate, as appropriate under Section 10-7(f), for the hours worked during the general emergency period that exceed the normal workday; plus
 - (B) general emergency pay at the regular hourly rate for the hours worked during the general emergency period that exceed the normal workday;
 - (5) place a non-essential employee who is not required to work during the general emergency period on administrative leave for the period of the employee's work schedule that coincides with the general emergency period;
 - (6) compensate a non-essential employee who works during the general emergency period, even though the employee's supervisor did not require the employee to work, with regular pay for the hours worked that coincide with the general emergency period; and
 - (7) change an employee's paid leave to administrative leave if the employee had scheduled the use of paid leave, such as annual leave, sick leave, PTO, or compensatory time, during the general emergency period.
- (b) An employee on a regular day off during a declared general emergency period is not eligible to receive administrative leave or an alternate day off.
 - (c) An essential or non-essential employee in an MLS position who works during a declared general emergency period is not eligible to earn general emergency pay.

10-15. Compensation of employees during a declared liberal leave period or local emergency.

- (a) For a declared liberal leave period, the County must compensate employees who work with regular pay.

- (b) During a local emergency at one or more work locations, the County must compensate an employee who works with regular pay.

10-16. Special within-grade pay increase.

- (a) A department director may, with the written approval of the OHR Director, increase the base salary of a merit system employee to:
 - (1) keep an employee in an occupational class or series to which it is difficult to attract or retain employees; or
 - (2) resolve a pay inequity affecting an employee.
- (b) A department director may not approve or the OHR Director approve a within-grade increase for a newly-hired employee or an employee whose salary is at the maximum of the pay grade.
- (c) The OHR director must review appropriate information to determine if the increase should be approved, such as:
 - (1) the salaries of other department employees in the same occupational class and other occupational classes that may be impacted by the increase; and
 - (2) if the increase is to keep an employee in an occupation class to which it is difficult to attract or retain employees:
 - (A) the turnover rate, number of vacant positions; and length of time it takes to fill vacant positions in the occupational class;
 - (B) the number of qualified applicants in the local labor pool; and
 - (C) salaries paid to members of the occupational class by local private and public sector employers.
- (d) The director must certify to the OHR Director that:
 - (1) the employee's job performance is satisfactory; and
 - (2) the increase will not create pay inequities among other employees.
- (e) The OHR Director may not approve a special within grade pay increase of more than 10 percent except in extraordinary cases.
- (f) An employee who receives a special within-grade pay increase may receive a service increment or general wage adjustment if the employee is otherwise eligible under these Regulations.

10-17. Recruitment and retention incentives.

- (a) A department director, with the written approval of the OHR Director, may give a lump-sum recruitment or retention incentive to:

- (1) an applicant for a position in an occupational class for which the County has had difficulty finding qualified applicants because of labor market conditions; or
 - (2) an employee in a position in an occupational class in which the County has had difficulty retaining employees.
- (b) A department director may give an incentive to an applicant or employee only if the OHR Director has determined that the applicable occupational class is eligible for the incentive.
- (c) Before recommending a retention incentive, a department director must consider the following:
 - (1) whether one employee, some employees, or all employees in the occupational class should be given an incentive;
 - (2) the effect on employees who do not receive the incentive if an incentive is not given to each employee in the occupational class; and
 - (3) whether the employee should be given a permanent pay increase through a special within-grade pay increase under Section 10-14 or a temporary pay increase under this subsection.
- (d) The OHR Director must determine which occupational classes are eligible for the incentive by reviewing appropriate indicators such as:
 - (1) the turnover rate, number of vacant positions; and length of time it takes to fill vacant positions in the occupational class;
 - (2) the number of qualified applicants in the local labor pool; and
 - (3) the salaries paid to individuals in the occupational class employed by local private sector and public sector employers.
- (e) A department director, with the OHR Director's approval:
 - (1) may award a recruitment or retention incentive of up to 10 percent of the employee's base salary, if the applicant or employee agrees to the terms described in subsection (f) below;
 - (2) may pay the incentive in one or more lump-sum payments over a 2-year period;
 - (3) must pay the incentive as lump sum payments and not as an addition to base salary;
 - (4) must not pay an incentive to an applicant until after the applicant accepts and actually begins County employment; and

- (5) must not pay more than 10 percent of the employee's base salary in incentive pay over a 5-year period, except under extraordinary circumstances.
- (f) Under extraordinary circumstances, the CAO may approve more than 10 percent of the employee's base salary in incentive pay over a 5-year period.
- (g) An employee who receives a recruitment or retention incentive must agree to remain a County employee for at least 2 years after receiving the first incentive payment and must agree to repay a prorated amount of the total incentive if the employee does not stay for the entire 2-year period. The employee will not have to repay the incentive if the employee dies or the County terminates the individual's employment. The OHR Director may waive repayment in other extenuating circumstances.

10-18. Court time compensation. The County must compensate an employee in a position in the Correctional Officer, Correctional Specialist, or Deputy Sheriff occupational series as follows, if the employee is required by the employer to attend court or a Motor Vehicle Administration (MVA) hearing on the employee's day off or during times that are not the employee's regularly scheduled work hours:

- (a) the employee must be compensated for at least 3 hours at 1½ times the employee's regular hourly rate, regardless of the actual time spent in court or an MVA hearing;
- (b) if the employee works longer than 3 hours, the employee must be compensated for all hours spent in court or in an MVA hearing at 1½ times the employee's regular hourly rate; and
- (c) if the employee is required to appear in court 2 or more times during the initial 3-hour period, the employee will not receive additional compensation for a later appearance until 3 hours have elapsed since the employee initially appeared in court that day.

10-19. Automotive Service Excellence (ASE) incentive pay.

- (a) ***Purpose of ASE incentive pay program.*** The purpose of the ASE incentive pay program is to encourage all eligible employees in the Division of Fleet Management Services, Department of Public Works and Transportation, to increase their knowledge of the latest technology in the field of vehicle maintenance by compensating them for obtaining ASE certifications, recertifications, and master certifications.
- (b) ***Eligibility for ASE incentive pay.*** An employee of the Division of Fleet Management Services, Department of Public Works and Transportation, is eligible to receive the ASE incentive pay described in paragraph (c) if:
 - (1) the employee takes and passes an examination administered by ASE and obtains a certification or recertification that is relevant to the employee's

job duties or the employee obtains a master certification by obtaining the required number of certifications;

- (2) the employee:
- (A) directly works on or supervises those who work on County vehicles and equipment;
 - (B) trains or supports those who work on County vehicles and equipment;
 - (C) inspects County vehicles and equipment; or
 - (D) provides technical expertise, quality assurance, or warranty administration on County vehicles and equipment; and
- (3) the employee's job performance and job-related conduct are satisfactory.
- (c) **Amount of ASE certification pay.** The County may compensate an eligible employee with ASE certification pay as follows:

ASE Certification	Amount of Incentive	Limitation on incentive
Certification or recertification for which employee must take valid examination and receive a passing score	\$100 per year for each year that certification is valid	Employee may receive incentive for no more than 20 certifications per year
Master certification for obtaining required number of certifications (no additional examination is required)	\$1,000 per year for each year that master certification is valid	Employee may receive incentive for no more than 2 master certifications per year
Total certifications or recertifications and master certifications	---	Employee may receive no more than \$4,000 annually in ASE certification pay

Editor's note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to compensation
Firefighter/Rescuer	<div> 13, Rate/Type of Compensation 14, Overtime 15, Call-back Pay 17, Special Duty Differentials 18, Snow Emergency/General Emergency Pay </div> <div> 19, Wages 21, Travel 22, Prevailing Rights 48, Job Sharing Program 49, Compensatory Time </div> <div> Appendix I, II, III, and IV, Salary Schedules Appendix V, Agreements for Candidates for Paramedic Positions Appendix VI, MOU on Compensation for Working Out of Class </div>

OPT/SLT	5, Wages, Salary and Employee Compensation 7, Accelerated Within Grade Advancement 9, Working Conditions 31, Maintenance of Standards 32, Tools and Uniforms 41, Retirement 44, Defined Contribution Plan 50, Legal Defense and Representation Appendix I, OPT Unit, Sheriffs Appendix II, OPT Unit, Dept. of Health and Human Services Appendix III, SLT Unit, Dept. of Police Crossing Guards Appendix VI, OPT/SLT Units, DPW&T Appendix VII A, B, and C, Salary Schedules
Police	<div> <div> 5, Tech Pay 6, Clothing Allowance 10, Court Time 15, Hours and Working Conditions 21, Compensatory Time 23, Maintenance of Standards/ Retention of Benefits and Conditions </div> <div> 29, Physical Fitness Awards 30, Uniforms and Equipment 33, Labor-Management Relations Committee 36, Wages 41, Shift Differential 55, Job Sharing Program </div> </div>